

**Testimony Before the Ohio Senate Public Utilities Committee on SB 157  
June 22, 2017**

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Mr. Chairman, I am here today to testify on Senate Bill 157. First, I want to thank the Committee and bill sponsor Senator Kevin Bacon for jumping into the utility submetering issue.

Our firm represents the Utility Management and Conservation Association (UMCA), a national trade association representing "traditional" utility submetering companies. Traditional submetering companies are merely billing agents for owners of multiple-tenant real estate, and also condominium associations. The business model of traditional submetering companies is simply to *allocate* master metered utility bills to the owner's tenants based upon actual tenant usage derived from utility meters installed for each tenant. Traditional submetering companies merely read the meters, apply rates to the usage, bill the tenants, and in some cases, collect tenant payments as agent for the owner. Traditional submetering companies do not mark up the utility rates, instead charging only the actual cost to the property of the master metered utility, plus a competitively derived, reasonable administrative fee, similar to the administrative fee that the underlying utility provider would be charging the tenants if they were being direct-billed by the providing utility. Because tenants use approximately 30% less when they become responsible for their own utility usage, submetering is responsible for significant utility conservation in the United States.

The need for this legislation has arisen because of the emergence in Central Ohio of two "non-traditional" submetering companies, whose business practices differ markedly from UMCA's Best Practices, and are the source of the consumer complaints which have motivated your legislation and activity by PUCO. These non-traditional submetering companies are not agents of the property owners, instead they own the utility infrastructure, are themselves the customer of the underlying providing utility, and the rates they charge tenants is often far more than that charged on their master meters. Also because they are owned by their real estate developer parent companies, they have no competition from traditional submetering companies, so they are able to charge tenants whatever they want in fees and other charges.

To address the complaints spawned by these non-traditional submetering companies, and to establish stability in the Ohio submetering marketplace, the UMCA supports with amendments SB 157 and writes to suggest amendments for your consideration.

UMCA would suggest SB 157 should:

1. Apply to municipal and cooperative water and sewer services as the markup of these services is the prime driver harming Central Ohio consumers and the water submetering is a large marketplace that should be protected by common statewide regulation;
2. Establish two methods of providing submetering service: actual cost of the utility service plus administrative fees; or standard residential utility rate cap;
3. Ensure that the permitted administrative fees are consistent with current practices and have a mechanism to increase over time to meet inflationary pressures; [prefer competitively derived (and therefore, reasonable) fees over legislatively set fees, and where no competition, set those fees]
4. Create an enforcement mechanism that permits litigation or regulatory review but does not encourage it by permitting submetering companies to correct alleged violations of the law prior to litigation or regulatory review and under no circumstances permitting treble damages; and
5. Create a common statewide system of regulation and not permit a myriad of contradictory local government regulations of an industry.
6. Consumer-requested meter testing is usually at a remote testing lab, so it is not practical for the consumer to observe.
7. Rates merely fixed in the lease fail to protect consumers, as there is no limit to what rates could be put in the lease.
8. The record retention requirement tied to the end of lease in effect requires perpetual record retention because, for example, a condominium resident might live there 50 years. Also, it is impossible for submetering companies to track the lease terminations of many thousands of tenants. Only the owner has lease termination records.
9. § 5325.15 regarding the ability of PUCO to prohibit or limit the resale of utility services should be limited to non-traditional submetering companies which do not face competitive market forces and should not apply to traditional submetering companies, which operate in a highly competitive marketplace, thus PUCO regulation of traditional submetering companies is unnecessary.
10. Consumers should be required to give *written* notice to the property manager about any alleged compliance failure, to avoid "he said, she said" disputes about if and when notice was given and when the 30 days begins to run.

We look forward to working with you and members of the Ohio Senate Public Utilities Committee on SB 157, hope for speedy amendment and passage of this important legislation and are glad to answer any questions.